



Tax Information Bulletin

STATE BOARD
OF EQUALIZATION

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Effective April 1, 1997, the sales and use tax rate in Santa Clara County is **8.25** percent. The new rate is the result of voter approval of a new 0.50 percent Santa Clara County Transactions (Sales) and Use Tax (SCGF).

Are all my sales subject to the new tax rate?

Your taxable sales are subject to the 8.25 percent rate if you:

- Are a retailer located in the county and your merchandise is sold and delivered within the county.

- Are a retailer located outside the county who is engaged in business in the county, and you sell merchandise for use in the county. You are considered to be engaged in business in the county if you (1) have any type of business location there, (2) deliver into the county using your own vehicles, or (3) have an agent or representative in the county who makes sales, takes orders, or makes deliveries.
- Are a dealer of vehicles, undocumented vessels, or aircraft, and you sell those items to persons who will register them in the county.
- Collect tax on lease payments you receive for leased property used by the lessee in the county.

How are fixed-price contracts and leases affected?

If you entered into a fixed-price contract or fixed-price taxable lease agreement prior to April 1, 1997, your contracts are subject to the 7.75 percent tax rate in effect prior to April 1, 1997. To qualify as fixed-price, neither party can have the unconditional right to terminate the contract or lease [Revenue and Taxation Code sections 7261(g) or 7262(f)]. In addition, the tax amount or rate must be specifically stated in the contract or lease agreement.

Please note: A lawsuit filed in superior court has challenged the Santa Clara County Transactions and Use Tax as unconstitutional. The tax was approved with 52 percent of the vote in the November 5 election for implementation on April 1, 1997. Regardless of the legal challenge, the 0.50 percent tax will go into effect on April 1, 1997, resulting in the new sales and use tax rate described above. If the tax is declared unconstitutional in a court of final appeal, the Board will immediately issue a news release to the media and take further



action to notify you of any resulting rate change.

Effective April 1, 1997, the sales and use tax rate in Santa Cruz County is **8.0** percent. The new rate represents a 0.25 percent decrease from the 8.25 percent rate in effect prior to April 1 and is the result of the following tax district changes:

Expiration of the Santa Cruz County Earthquake Recovery Bond (SCER) tax. The 0.50 percent SCER tax expires March 31, 1997. Consequently, taxable transactions occurring on or after 12:01 a.m., April 1, 1997, are not subject to the district tax.

New Santa Cruz County Public Library Tax. In November 1996, voters approved the 0.25 percent Santa Cruz Public Library (SCPL) transactions (sales) and use tax, which takes effect April 1, 1997.

Are all my sales subject to the new rate?

Your taxable sales are subject to the 8.0 percent rate if you:

- Are a retailer located in the county and your merchandise is sold and delivered within the county.
- Are a retailer located outside the county who is engaged in business in the county, and you sell merchandise for use in the county. You are considered to be engaged in business in the county if you (1) have any type of business location there, (2) deliver into the county using your own vehicles, or (3) have an agent or representative in the county who makes sales, takes orders, or makes deliveries.
- Are a dealer of vehicles, undocumented vessels, or aircraft, and you sell those items to persons who will register them in the county.

- Collect tax on lease payments you receive for leased property used by the lessee in the county.

What if I have a contract that specifies the 8.25 percent rate that was in effect prior to April 1, 1997?

Contracts and taxable lease agreements entered into prior to April 1, 1997, are subject to the new, lower 8.0 percent rate.

Note: The 0.50 percent Santa Cruz Metropolitan Transit District (SCMT), which has been in effect since 1979, remains in effect. You should continue to report transactions (sales) and use taxes for this district.

If you are a lessor of chemical toilet units, you are generally required to report tax on your rental receipts. This is true even if you paid tax on your purchase of the units or the units are leased in substantially the same form as you acquired them.

In addition, you are required to report tax on cleaning service charges if the lessee must purchase the cleaning service from you (for example, your contract may require the lessee to purchase the service from you, or a county ordinance may require you to service the units).

If the lessee has the option of contracting with you or another company for the cleaning service, the cleaning service charge is not taxable. For the cleaning service to be considered optional, the following requirements must be met: (1) the lease agreement must state that "cleaning services are optional to the lessee;" and (2) if the lessee uses your company for the cleaning service, your charges for that service must be separately itemized on the lessee's rental receipts.



Businesses with average taxable sales of \$17,000 per month or more are required to make prepayments. They must continue to make prepayments until advised in writing by the Board to stop. — Editor

If you make sales and use tax prepayments (by paper or through electronic funds transfers), you should mark your calendar to remind yourself of the upcoming second quarter prepayment due dates. Every year at this time special quarterly sales tax prepayment and EFT prepayment requirements take effect for the second calendar quarter (April through June), and every year a number of taxpayers who make prepayments are taken by surprise.

The first prepayment is due on or before May 24, 1997. One of the following amounts is payable:

- 95 percent of the tax liability due for the month of April 1997; or,
- One third of the measure of tax liability reported for the same quarterly period of the preceding year (2nd Quarter 1996), multiplied by the current tax rate. To use this second method of calculating the prepayment, you or your predecessor (the previous owner) must have been in business during all of the second quarter of 1996.

The second prepayment is due on or before June 23, 1997. One of the following amounts is payable:

- 95 percent of the tax liability due for the period from May 1, 1997, through June 15, 1997; or
- 142.5 percent of the tax liability due for the month of May 1997; or
- An amount equal to one-half the measure of the tax liability reported for the same quarterly period of the preceding year

(second quarter 1996), multiplied by the tax rate in effect when the payment is made. Again, to use this method you or your predecessor must have been in business during all of the second quarter of 1996.

If you pay your prepayments by check, money order, or in cash, all the appropriate forms for making the prepayments will be sent to you about a month before the due dates. If you pay by EFT, you will not receive any prepayment forms. Therefore, please write the due dates down on your calendar. The penalty for late prepayments, including those made by EFT, is six percent of the amount of the prepayment.

Each year, we receive thousands of calls from businesses needing help with their tax questions. In fact, last year our Information Center alone received more than 175,000 calls. While we are always glad to provide help and guidance with your various tax concerns, we would like to remind you that it is always best to get tax advice in writing.

Since the Sales and Use Tax Law can be complex, as are many of your business transactions, you are encouraged to put your tax questions in writing. Not only will that give us more information on which to base our advice; it may protect you from owing tax, interest, or penalties if we should give you erroneous written advice. Such protection is not provided for advice given to you in person or on the telephone.

The Sales and Use Tax Law provides that you may be relieved of paying tax, interest, and penalties if it is determined that your failure to make a timely return or payment of sales or use tax was due to your reasonable reliance on the Board's erroneous written advice. This relief is available if the advice provided by



Board staff was in response to a written request from you, fully describing the specific facts and circumstances of the activities or transaction for which the advice was requested.

What do I do if I receive erroneous written advice?

To seek relief from the Board for previous written advice, you must file with the Board:

- A copy of your written request for advice
- A copy of the Board's written advice
- A statement under penalty of perjury stating the facts on which the claim for relief is based
- Any other information the Board may require

The Board will advise you whether the requested relief can be granted.

Effective January 1, 1997, retail florists, including mobile retail florists, are subject to a \$500 fine if they make sales without a proper sales and use tax permit (the fine is in addition to all other penalties that may apply). Moreover, all florists are required to have a copy of their permit at each location where they make sales, including all temporary locations. These changes are the result of the passage of Assembly Bill 2551 (Ch. 1130, Stats. 1996).

A "retail florist" is any person who makes retail sales of flowers, potted ornamental plants, floral arrangements, floral bouquets, wreaths or similar products. For purposes of this legislation, a "retail florist" does not include a flower or ornamental plant grower selling his or her own products.

A "mobile retail florist" is any retail florist who sells from a temporary structure or retail shop. Generally, a florist who sells from a vehicle, pushcart, wagon, or other portable means is considered a "mobile florist," as is

a florist who sells at a swap meet, flea market, or similar temporary location.

The Business and Professions Code, section 13412, requires service station operators and other motor vehicle fuel sellers to provide refueling services to customers with disabilities (see note below for exceptions). The Code also requires sellers to charge no more than the self-service price for their sales to disabled customers. Consequently, if you provide refueling services to a disabled customer at a full-service pump, you cannot charge more than the self-service price.

"Disabled drivers" are drivers who display a disabled person's or disabled veteran's plate or placard issued by the Department of Motor Vehicles.

In addition, you are generally required to post the following notice in a conspicuous location:

Service to Disabled Persons

Disabled individuals properly displaying a handicapped parking placard or plate are entitled to request and receive refueling service at this gas station for which they may not be charged more than the self-service price.

Note: If you operate a convenience store or an exclusive self-service gas station and sell motor vehicle fuel through remote-controlled gas pumps, operated by a single cashier, and never provide pump island service, your sales of motor vehicle fuel are exempt from the provisions of this act.

If you are a nonprofit organization and operate a thrift store for the purpose of providing medical and social services to



individuals with HIV or AIDS, your sales and purchases may be exempt from sales and use tax, as explained below. The exemption takes effect January 1, 1997, and continues through December 31, 2001.

To qualify for the exemption, your organization must meet the following conditions:

- The purpose of your thrift store must be to obtain revenue for funding medical and social services to individuals with a chronic, life-threatening illness, as defined in the Health and Safety Code (see below);
- Your organization must expend at least 75 percent of its net revenues for that purpose; and
- Your organization must be exempt from taxation under section 23701d of the Bank and Corporation Tax Law.

If your nonprofit organization meets the specific conditions noted above, your sales of used clothing, household items, or other such retail items are exempt from tax for the period of time noted above.

What qualifies as a chronic, life-threatening illness?

As defined in the Health and Safety Code, “chronic, life-threatening illness” means and relates only to individuals with HIV or AIDS.

If you sell aircraft parts or service and repair aircraft, you may be affected by legislation that exempts the sale or purchase of certain items from sales or use tax. As of October 1, 1996, the tax no longer applies to the sale or purchase of property that becomes a “component part” of a qualifying aircraft, when purchased to maintain, repair, overhaul, or improve the aircraft in compliance with Federal Aviation Administration (FAA) requirements.

Component parts

Generally, “component parts” include, but are not limited to:

- Items replaced, repaired, or overhauled according to mandatory and nonmandatory manufacturer “service bulletins”
- Components required by “air worthiness directives” issued by the FAA
- Life-limited parts

For tax purposes, “component parts” are essentially those associated with the functional aspect of the aircraft, including those related to safety and air worthiness. They generally do not include general expense items or comfort-related items, such as attendant carts, blankets, pillows, or serving utensils.

Qualifying aircraft

A qualifying aircraft is one that has been sold or leased to (1) persons using such aircraft as a common carrier of persons or property according to the laws of California, the United States, or any foreign government, (2) a foreign government for use outside California, or (3) a nonresident of California whose only use of the aircraft in California is to remove it from the state.

Labor/service charges

Tax also does not apply to related service or labor charges that are part of an exempt sale of property that will become a component part of a qualifying aircraft.

Exemption certificate

When selling or purchasing property that will become a component part of qualifying aircraft, an exemption certificate should be provided and retained. You can obtain a copy of a proposed *Aircraft Parts Exemption Certificate* from our Information Center (see page 8).



This article explains how use tax applies to property that becomes a component part of railroad equipment, when the property is installed out-of-state. — Editor

Generally, property that is purchased outside California and brought into this state is regarded as having been purchased for use in this state, if the first functional use of the property occurs here. If the property is first functionally used outside California, the property is nevertheless presumed to have been purchased for use in this state if it is brought into California within 90 days after its purchase, unless the property is used or stored outside California 50 percent or more during the six month period immediately following its entry into this state. When it is determined that the property has been purchased for use in California, the purchaser is generally liable for use tax.

Under 1996's Assembly Bill 3375, when locomotives, rail cars, and other such equipment are used as a common carrier in *interstate or foreign commerce* and repaired, altered, or improved at an out-of-state location, any tangible personal property becoming a component part of the railroad equipment (defined below) is exempt from the use tax, effective September 16, 1996. This exemption applies whether or not the property is considered to have been purchased for use in California (see note next column regarding property that is installed in California). The exemption does not apply to property used exclusively within California.

Railroad equipment

For purposes of AB 3375, railroad equipment includes locomotives, freight and passenger cars, maintenance-of-way equipment, and any other equipment riding on flanged wheels and owned or used by a common carrier engaged in interstate or foreign commerce,

or by any person for the purpose of leasing that equipment to a common carrier engaged in interstate or foreign commerce.

Note: Sales tax still applies to tangible personal property becoming a component part of railroad equipment when the property is installed in California.

If you sell cigarettes, you may be approached by someone offering to sell you cigarettes without California tax stamps. Unless you are a licensed cigarette distributor, it is a violation of law to buy or sell unstamped cigarettes in California. — Editor

Cigarettes

Every pack of cigarettes sold in California should bear a California tax stamp, generally located on the bottom of the pack. This tax stamp indicates to the consumer or the distributor that the cigarette tax has been paid. It is the responsibility of the persons who sell cigarettes at retail to ensure that cigarettes purchased for resale are properly stamped and that the supplier is a licensed cigarette distributor or cigarette wholesaler.

Cigarette packages that do not bear an official California tax stamp are illegal and should not be offered for sale in this state. Other indications that the cigarettes may be illegal are cartons wrapped in cellophane labeled "For Export Only — Not to be sold in the United States." Cigarettes of this type are usually smuggled into California. Packages of cigarettes which also have the "Export Only" — type label cannot be sold in California unless they bear the California cigarette tax stamp.

Tobacco Products

If you sell tobacco products such as cigars, pipe tobacco, and snuff, purchased from a California supplier, you must ensure that the



supplier is licensed and the California excise tax has been paid. Before you purchase tobacco products from outside California, you must register as a Tobacco Products Distributor, unless your out-of-state supplier is registered and pays the tax directly to the Board. If you purchase tobacco products from an unlicensed supplier, you may be responsible for paying the tax.

Criminal Penalties

All persons who possess, sell or transport illegal cigarettes or tobacco products may be guilty of a misdemeanor and/or felony, as described in the California Cigarette and Tobacco Products Tax Law (sections 30471 through 30481). Suspected illegal cigarettes or tobacco products can be reported to the Board's Tax Evasion Hotline (see page 8).

For More Information

If you need information about obtaining a cigarette or tobacco products distributor's license, please call our Information Center (see page 8). You can also ask for a copy of pamphlet 4, *The California Cigarette and Tobacco Products Tax Law*.

Besides the *Tax Information Bulletin*, the Board also produces a *Fuel Taxes Newsletter* and an *Environmental Fees Newsletter*, which are automatically sent to taxpayers who file returns for those programs.

If you do not receive these newsletters and would like to be added to the mailing list, please send your request to the Fuel Taxes Division or the Environmental Fees Division, at the address shown on the front page.

If you would like to obtain a copy of any of the following reference material, please call the Information Center (see page 8).

Sales and Use Tax Regulations

- 1543 Publishers
(effective November 23, 1996)
- 1587 Animal Life and Feed
(effective October 12, 1996)
- 1591 Medicines and Medical Supplies,
Devices and Appliances
(effective December 19, 1996)
- 1619 Foreign Consuls
(effective October 6, 1996)
- 1630 Packers, Loaders, and Shippers
(effective November 22, 1996)
- 1643 Debit Card Charges
(effective September 22, 1996)

Law Pamphlets

(January 1, 1996, cover dates)

Several law pamphlets are available for the tax programs administered by the Board, including the sales and use tax pamphlets listed below. If you would like to obtain one of our other law pamphlets, please call the Information Center.

- 1 Sales and Use Tax Law
- 2 Uniform Local Sales and Use Tax,
Transactions and Use Tax Law, and
Additional Taxes

Tax Information Pamphlets

- 26 *Tax Information Bulletin Index*
January 1997 (1996 index)
- 51 *Guide to Board of Equalization Services*
October 1996
- 73 Translations of the January 1996 *Your California Seller's Permit*. Please order as follows: 73-S (Spanish), 73-C (Chinese), 73-V (Vietnamese), or 73-K (Korean)
- 80 *Electronic Funds Transfer Program Information Guide*, October 1996



(includes state, local, and district taxes)

County	Rate	County	Rate
Alameda	8.25%	Orange	7.75%
Alpine	7.25%	Placer	7.25%
Amador	7.25%	Plumas	7.25%
Butte	7.25%	Riverside	7.75%
Calaveras	7.25%	Sacramento	7.75%
Colusa	7.25%	San Benito	8.25%
Contra Costa	8.25%	San Bernardino	7.75%
Del Norte	7.75%	San Diego	7.75%
El Dorado	7.25%	San Francisco	8.50%
Fresno (1)	7.75%	San Joaquin	7.75%
Glenn	7.25%	San Luis Obispo	7.25%
Humboldt	7.25%	San Mateo	8.25%
Imperial (2)	7.75%	Santa Barbara	7.75%
Inyo	7.75%	Santa Clara	8.25%
Kern	7.25%	Santa Cruz	8.00%
Kings	7.25%	Shasta	7.25%
Lake (2)	7.25%	Sierra	7.25%
Lassen	7.25%	Siskiyou	7.25%
Los Angeles	8.25%	Solano	7.25%
Madera	7.75%	Sonoma	7.50%
Marin	7.25%	Stanislaus	7.375%
Mariposa	7.25%	Sutter	7.25%
Mendocino	7.25%	Tehama	7.25%
Merced	7.25%	Trinity	7.25%
Modoc	7.25%	Tulare	7.75%
Mono	7.25%	Tuolumne	7.25%
Monterey	7.25%	Ventura	7.25%
Napa	7.25%	Yolo	7.25%
Nevada	7.25%	Yuba	7.25%

(1) The effective date of the 7.75% tax rate in Fresno County is 3/21/96.

(2) The following district taxes are not imposed countywide. These districts, alone or when combined with countywide districts, create a higher total tax rate in some areas of the county.

County	District	District Boundary	Total Tax Rate
Imperial	Calexico Heffernan Hospital District	Calexico City Limits	8.25%
Lake	City of Clearlake Public Safety Transactions and Use Tax	Clearlake City Limits	7.75%

Information Center

Staff are available from 8:00 A.M. to 5:00 P.M., Monday through Friday, excluding State holidays. Call:

1-800-400-7115

For telephone devices for the deaf:

1-800-735-2929 (TDD phone)

1-800-735-2922 (voice phone)

Call 24 hours a day to use the automated fax-back service or to leave a recorded message requesting a specific publication.

Internet

Visit us at <http://www.boe.ca.gov> for information on sales and use tax rates by county, publications, district office telephone numbers, public meetings, and so forth.

Tax Evasion Hotline

If you believe a business should be reporting taxes and is not, you can call us toll-free to report it. Call during working hours at 1-888-334-3300.

Legislative Bills

Write to the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814. The Bill Room does not provide copies of Board forms or publications.